

## REMARKS

Claims 1-61 were previously pending in the application; and claims 28-33, 38, 44, 53, 56 and 59 were under consideration.

In this response, Applicants have amended claims 28-30, 32, 33, 38 and 44 and canceled claims 31, 53, 60 and 61, without prejudice. Specifically, independent claim 28 has been amended to recite a package for preserving a dental implant and an ampoule for holding the dental implant. Furthermore, claim 28 has been amended to incorporate the recitation of a means “to releasably connect to the ampoule such that the means and the ampoule remain connected after removing the cap and the ampoule from the external capsule, said means comprising an actuation knob adapted to cause separation of the ampoule from the means when actuated in the axial direction of the ampoule”. Support for the amendments is found, for example, at Page 7, Line 15 to Page 16, Line 23 of the specification and Figs. 3-10C of the drawings. Furthermore, claim 29 has been amended to incorporate the recitation, “wherein the means forms an integral part of the cap, such that the means releasably connects the ampoule to the cap, said actuation knob extending from an external surface of the cap”. Support for the amendments is found, for example, at Figs. 3-4C and 7-10C of the drawings. Previous independent claims 38 and 44 have been amended to depend from claim 28. No new matter has been introduced by these amendments.

Favorable reconsideration of the currently pending claims is respectfully requested in light of the following remarks.

The Examiner has objected to the specification as allegedly failing to provide proper antecedent basis for the claimed subject matter. Specifically, the Examiner has alleged that the meaning of the limitation, “transportation”, recited in claim 38 is not clear.

Applicants believe that the Examiner intended to object to the limitation, “transport means”, recited in claim 38, because claim 38 does not recite “transportation”. Applicants have amended claim 38 to cancel the term “transport”. Furthermore, claims 39, 40, 41 and 43, withdrawn in response to the previous Official Action dated August 6, 2009 setting forth a restriction requirement, have been amended correspondingly to cancel the term “transport”. Accordingly, Applicants believe that the above objection to the specification is overcome, and withdrawal thereof is respectfully requested.

The Examiner has rejected claims 28-33, 38, 44, 53, 56 and 59 under 35 USC §112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

First, the Examiner has alleged that the limitation recited in claim 32, “the ampoule to snap into a groove of the ampoule”, is not clear with respect to whether the ampoule can snap engage with itself. Claim 32 recites, *inter alia*, “a downward extension which, in an assembled state of the package, protrudes between the external capsule and the ampoule to snap engage into a groove of the ampoule”. Based on the above recitation, Applicants clarify herein that the downward extension, protruding between the external capsule and the ampoule, engages a groove of the ampoule.

Second, the Examiner has rejected the limitation of “transportation” recited in claim 38. As stated above, Applicants believe that the Examiner intended to reject the limitation, “transport means”, recited in claim 38. Applicants have amended claim 38 to cancel the term “transport”.

Furthermore, the Examiner has rejected the limitation of “or the like” recited in claims 28, 38 and 44. Applicants have amended these claims to delete this limitation.

Accordingly, the rejection of claims 28-33, 38, 44, 53, 56 and 59 under 35 USC §112, second paragraph, as allegedly indefinite is overcome, and withdrawal thereof is respectfully requested.

The Examiner has further rejected claims 28-31, 38 and 44 under 35 USC §102(b) as allegedly anticipated by U.S. Patent No. 3,623,492 to Frantz (hereinafter "Frantz"). Applicants respectfully submit that the above rejection is overcome in light of the following remarks.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company et al.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir., 1984). Applicants respectfully submit that Frantz fails to disclose each and every element of the claimed invention, for at least the following reasons.

Independent claim 28 recites a package for preserving a dental implant. The package includes, *inter alia*, an external capsule, a cap sealingly engaging the external capsule, and an ampoule for holding the dental implant. The package further includes a means to releasably connect to the ampoule, such that the means and the ampoule remain connected after removing the cap and the ampoule from the external capsule. The means includes an actuation knob adapted to cause separation of the ampoule from the means when actuated in the axial direction of the ampoule.

Frantz discloses a lens washer (10), which can be used to store and clean contact lenses. Specifically, the washer includes a cylindrical container (11) for storing lens washing fluid and a lens case agitator (21). The lens case agitation includes bifurcated legs (22a) adapted to receive a cylindrically shaped perforated lens case (23). The washer further includes a lid member (15) having internal threads (17) adapted to engage external threads (14) of the

container. The lid member further includes a driving chain consisting of internal teeth (28), a planetary gear (25) and a spur gear (24) for driving the lens case agitator. A circular knob member (26) is attached to the lid member for driving the planetary gear and the spur gear. After the combined lid member and knob member is assembled to the container, rotation of the knob member actuates the rotation of the lens case agitator and the lens case held by the agitator, thereby allowing the washing fluid to move through the perforated case to clean the lens.

In the first instance, Applicants respectfully submit that Frantz teaches a lens washer for storing and cleaning contact lenses. In contrast, claim 28 recites a package for preserving a dental implant.

Furthermore, Applicants respectfully submit that Frantz fails to disclose, “an actuation knob adapted to cause separation of the ampoule from the means when actuated in the axial direction of the ampoule”, as recited in claim 28.

As discussed above, the circular knob member (26) is adapted to rotate the lens case (23) within the container (11) filled with washing fluid. Specifically, when the combined knob member and lid member is assembled to the container, the lens case agitator and the lens case must be firmly attached to the combined lid member and knob member, in order to rotate upon the rotation of the knob member. Thus, the knob is not adapted to cause separation of the lens case from either the knob member or the lid member. Additionally, it is important to note that the knob member of Frantz does not operatively translate along a certain direction, not to mention being actuated in the axial direction of the ampoule. The knob only operatively rotates to ensure moving of the washing fluid through the perforated lens case.

Hence, Frantz fails to disclose each and every element recited in claim 28, from which all the other claims depend.

Therefore, the rejection of claims 28-31, 38 and 44 under 35 USC §102(b) based on Frantz is overcome, and withdrawal thereof is respectfully requested.

The Examiner has further rejected claims 29-33 and 53 under 35 USC §103(a) as allegedly unpatentable over U.S. Patent No. 6,261,097 to Shumutz (hereinafter “Shumutz”) in view of U.S. Patent No. 3,999,434 to Yen (hereinafter “Yen”). Applicants respectfully submit that the above rejection is overcome in light of the following remarks.

Claim 28, from which claims 29-33 and 53 depend, has been discussed above.

Shumutz discloses a package for a dental implant, in which the ampoule (200) is simply accommodated within an external capsule (300) closed by a closure cap (320). There is no connection or attachment between the ampoule and the cap/capsule. Thus, the ampoule can slide out of the capsule when the closure cap is removed. Stated differently, the package of Shumutz does not include a means to releasably connect to the ampoule, such that the means and the ampoule remain connected after removing the cap and the ampoule from the external capsule, as recited in claim 28. The deficiency of Shumutz is acknowledged by the Examiner, as indicated in Page 10, Line 2 to Page 11, Line 3 of the Official Action.

In light of the deficiency of Shumutz, the Examiner has relied on Yen for the alleged teaching of the above distinguishing feature recited in claim 28.

Yen discloses a temperature probe, which includes a sterile sheath covering the probe. Once the probe has been used, a push button at one end of the probe is pressed to discard the sheath.

“Obviousness requires a suggestion of all the elements in a claim,” *CFMT, Inc. v. Yieldup Int’l Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003), and “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the

claimed new invention does.” *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

Applicants respectfully submit that there is no reason that would have prompted a person of ordinary skill in the relevant field to combine the teaching of Shumutz and Yen to arrive at the claimed invention.

First, the disclosure of Yen relates to a non-analogous art, i.e., temperature sensors, which is remote and irrelevant with respect to the field of the claimed invention. Furthermore, Yen solves the problem of removing a disposable component after the use thereof. In contrast, the claimed invention solves the problem of delivering a dental implant in a sterile manner prior to the use thereof. In addition, Yen teaches releasing a disposable cover to expose the inner temperature probe. In contrast, the claimed invention contemplates releasing both the ampoule and the dental implant held by the ampoule, simultaneously.

Thus, a person of ordinary skill in the art intending to modify the package of Shumutz would not consider Yen, because Yen relates to a different technical field and solves a different problem. “When determining whether a reference in a different field of endeavor may be used to support a case of obviousness, it is necessary to consider the problem to be solved.” *In re ICON Health & Fitness, Inc.*, 496 F.3d 1374 (Fed. Cir. 2007).

Applicants respectfully submit that, considering the different technical fields of the claimed invention and Yen and the different problems to be solved by the claimed invention and Yen, there is no reason that would have prompted a person of ordinary skill in the relevant field to combine the teaching of Shumutz and Yen to arrive at the claimed invention. Furthermore, Applicants respectfully submit that the hypothetical combination of Shumutz and Yen is improper.

Therefore, the rejection of claims 28-31, 38 and 44 under 35 USC §103(a) based on the hypothetical combination of Shumutz and Yen is overcome, and withdrawal thereof is respectfully requested.

The Examiner has further rejected claims 56 and 59 under 35 USC §103(a) as allegedly unpatentable over Shumutz. Applicants respectfully traverse this rejection in light of the following remarks.

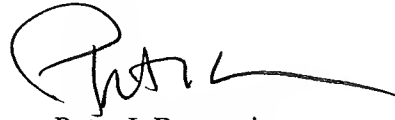
“Obviousness requires a suggestion of all the elements in a claim,” *CFMT, Inc. v. Yieldup Int’l Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003), and “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

Claim 28, from which claims 56 and 59 depend, has been discussed above. As acknowledged by the Examiner, Shumutz fails to teach a means to releasably connect to the ampoule, as recited in claim 28. Thus, Shumutz fails to teach or suggest all the elements in claims 56 and 59.

Therefore, the rejection of claims 56 and 59 under 35 USC §103(a) based on Shumutz is overcome, and withdrawal thereof is respectfully requested.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter I. Bernstein', with a long horizontal flourish extending to the right.

Peter I. Bernstein  
Registration No. 43,497

Scully, Scott, Murphy & Presser, P.C.  
400 Garden City Plaza, Suite 300  
Garden City, New York 11530  
(516) 742-4343  
PIB/HC:ad